

REMARKS

Applicants have reviewed and considered the Final Office Action dated April 22, 2008, and the cited references therein. In the Final Office Action, the Examiner rejected claims 23, 25-33 and 35-42. In view of the following remarks, Applicants request reconsideration and allowance of the pending claims.

Amendment to the Specification

In this response, the specification at paragraph 23 has been amended. No new matter has been added by this modification. Instead, the amendment to the specification points out advantages provided by the present invention, which is appropriate as evidenced by the MPEP:

By disclosing in a patent application a device that inherently performs a function or has a property, operates according to a theory or has an advantage, a patent application necessarily discloses that function, theory, or advantage, even though it says nothing explicitly concerning it. The application may later be amended to recite the function, theory, or advantage without introducing prohibited new matter.

MPEP 2163.07(a) (emphasis added). Thus, the specification is amended in accordance with the above-referenced section of the MPEP.

Rejections under 35 U.S.C. § 103

Independent Claims 23, 33, and 40 are Not Unpatentable Over Faulls, Jr.

Claims 23, 25, 29-31, 33, 35 and 39-42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,141,221 ("Faulls, Jr."). The rejection of the claims is traversed for at least the following reasons.

Faulls, Jr. does not disclose or suggest "indented gripping surfaces" as claimed in claims 23, 33, and 40, in which "an indented gripping surface is provided on two sides of each of said first and second lugs, wherein on one side of said first and second lugs the indented gripping surface is provided between [a] first ridge and said first lug and between [a] second ridge and said second lug, and wherein on another side of said first and second lugs the indented gripping

surfaces are provided between said first lug and a midpoint of the closed circumferential portion and between said second lug and the midpoint of the closed circumferential portion.”

Faulks, Jr., with reference to FIGS. 2-4, teaches stiffening beads 14a, 15a arranged at or at least directly next to the opening of outer member 13. As is observed from FIGS. 2-4, Faulks, Jr., at best, teaches only a single indented gripping surface on each of legs 14, 15. Accordingly, “intended gripping surfaces,” as recited in claims 23, 33, and 40 are not taught in Faulks, Jr. Further, Faulks, Jr. does not teach or suggest alternate configurations of the outer member 13 and/or stiffening beads 14a/15a that would result in more than a single indented gripping surfaces on each of legs 14, 15. In fact, the Examiner admits as much in the Office Action stating, “Faulks Jr. does not disclose expressly the second indented gripping surfaces between said first ridge and said first lug and between said second ridge and said second lug.” *Office Action*, page 3.

Notwithstanding the Examiner’s admission that Faulks, Jr. fails to teach the claimed invention, the Examiner states:

[I]t would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the second indented surface because Applicant has not disclosed that the second indented gripping surface provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant’s invention to perform equally well with either gripping surface (on one side of lugs) as taught by Faulks, Jr. or the claimed gripping surfaces because both gripping surfaces perform the same function of providing grip to user for convenience and comfort to insert and open the sealing clip. *Office Action*, page 3 – page 4.

Applicants disagree initially because, as provided in the present disclosure, as amended, the claimed gripping surfaces do not provide the same function. Specifically, the first indented surface functions as a gripping surface for pressing the sealing portion against the receiver portion (i.e., applying the seal) and the second indented surface functions as a gripping surface for applying a force to the lugs such that sealing portion may be move through the opening of the sealing portion (i.e., removing the seal). Applicants explain:

Turning now to FIG. 3, a method for sealing a bag 22 with the bag sealing apparatus 10 of FIGS. 1 and 2 will now be described in detail . . . The sealing portion 12 and the receiver portion 14 are initially separated, as shown in FIG. 3,

and mutually spaced apart and maintained generally approximately parallel to the opening 24. The opening 24 of the bag 22 may then be threaded between the mutually spaced apart sealing portion 12 and receiver portion 14. The sealing portion 12 may then be impressed against the opening 18 of the receiver portion 14. As the sealing portion 12 is continuously pressed against the receiver portion 14, the sealing portion 12 moves into the engagement aperture 16 with a portion of the bag 22 proximate to the opening 24 threaded between the sealing portion 12 and the receiver portion 14. When the sealing portion 12 is fully engaged with the receiver portion 14, the portion of the bag 22 that is proximate to the opening 24 is sealably interposed between the sealing portion 12 and the engagement aperture 16. *US Pub. No. 2002/0050853*, para. [0024] (emphasis added).

Still referring to FIG. 3, the bag sealing apparatus 10 may be removed from the bag 22 by grasping a portion of the sealing portion 12 that extends beyond an end of the receiver portion 14 and simultaneously applying a force to the lugs 20 to move the sealing portion 12 through the opening 18 of the receiver portion 14, so that the sealing portion 12 and the receiver portion 14 are again mutually spaced apart. The portion of the bag 22 proximate to the opening 24 may now be separated from the sealing portion 12 and/or the receiver portion 14 so that an interior portion of the bag 22 may be accessed. *US Pub. No. 2002/0050853*, para. [0025] (emphasis added).

As may be appreciated from the foregoing, removal of the seal of the present invention involves applying a force to lugs 20 in a direction that is opposite the direction in which force would be applied to the lugs 20 in applying the seal. Therefore, a second indented gripping surface is desirable. Applicants note that this is in contrast to the device of Faulls, Jr., which, at most, provides a single indented surface on each of legs 14, 15 for forcing the inner member 12 into the outer member 13 (i.e. applying the seal). *Faulls, Jr.*, col. 2, ll. 7-16. Indeed, as taught by *Faulls, Jr.* a second indented gripping surface for removing the seal is undesirable at least because, as opposed to the claimed invention, removal of the seal of *Faulls, Jr.* involves merely sliding the outer member 13 lengthwise off of the inner member 12. *Faulls, Jr.* explains:

Although the core and bag are firmly gripped by the outer member, the bag may be easily reopened without damage thereto by grasping the bag at one side and adjacent the closure, and then sliding the outer member 13 lengthwise of the core and bag, as shown in FIGURE 1. *Faulls, Jr.*, col. 2, ll. 18-22; FIG. 1.

Applicants disagree with the Examiner's assertion additionally because, as discussed above, first and second indented surfaces provide a distinct advantage over existing sealing

devices. Specifically, first and second indented surfaces provide a gripping surface for both applying the seal and removing the seal. As discussed in the present disclosure, as amended, first and second indented gripping surfaces are especially advantageous in environments in which gripping and handling of the sealing apparatus is difficult, such as for example cold temperature environments, wet/moist environments, and zero gravity environments.

For at least the aforementioned reasons, Faulls, Jr. does not teach or suggest the invention of claims 23, 33, and 40. Reconsideration and allowance are respectfully requested.

Claims 26 and 36 are Not Unpatentable over Faulls, Jr. in View of Vargas

Claims 26 and 36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Faulls, Jr. in view of U.S. Patent Publication No. 003/0188510 (Vargas).

Vargas does not disclose “lugs” with “indented gripping surfaces” on two sides of the lugs as claimed by the independent claims. Rather, Vargas discloses elongate planar member 18 in the plane of the closed circumferential portion. *See e.g.*, Fig. 2 of Vargas. This is contrary to the claimed elongate sealing member in which lugs are provided in a plane below the closed circumferential portion, and on two sides of each of the first and second lugs “indented gripping surfaces” are provided. *See e.g.*, Fig. 2b of the pending application. Nor does Vargas provide alternate teachings for providing an indented gripping surface in the manner provided in the independent claims. Therefore, even if Vargas were considered to disclose a handle as provided in claims 26 and 36, there is nothing in Vargas that would lead one to configure the elongated sealing member in the manner claimed in independent claims 23 and 33, from which claims 26 and 36 depend. Reconsideration and allowance are requested.

Claims 27-28 and 37-38 are Not Unpatentable over Faulls, Jr. in View of the Japanese Reference

Claims 27-28 and 37-38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Faulls, Jr. in view of Japanese Patent No. 8-48851 (Japanese Reference).

The Japanese reference does not disclose “indented gripping surfaces” formed on two sides of the lugs as provided by the independent claims. At Fig. 8 of the Japanese reference, element 71 is provided, which extends into the plane of the closed circumferential portion. This is contrary to the claimed elongate sealing member in which at least the ridges and lugs form

“indented gripping surfaces” in a plane below the closed circumferential portion. Further, the Japanese reference does not suggest an alternative to element 71. Thus, even if the Japanese reference discloses a lanyard as provided in claims 27-28 and 37-38, there is nothing in the Japanese reference that would lead one to configure the elongated sealing member in the manner claimed in independent claims 23 and 33, from which claims 27-28 and 37-38 depend. Reconsideration and allowance are requested.

CONCLUSION

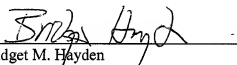
This application now stands in allowable form and reconsideration and allowance are respectfully requested.

No fee is deemed necessary. The Commissioner is also hereby authorized to charge any fee deficiency or credit any overpayment associated with this paper to Deposit Account No. 04-1420. If a conference with the undersigned would expedite issuing a Notice of Allowance, please contact Bridget Hayden at the number provided below.

Respectfully submitted,

DORSEY & WHITNEY LLP
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